

# EXPLANATORY MEMORANDUM

## ***INDUSTRIAL RELATIONS (PROHIBITION OF BARGAINING SERVICES FEES) AMENDMENT BILL 2007 (No. E221)***

*(Introduced by Mr Cowper, MLA)*

### **Preliminary**

The proposed amendments would insert an amendment into Section 96A of the State Industrial Relations Act, which deals with freedom of association. The purpose is to clarify and simplify the interpretation of “bargaining services” and “bargaining services fees”.

A further proposed amendment would insert after Section 96B a section to be known as 96BA which will expressly provide that any award, industrial agreement or order under this Act shall not include in it a “bargaining services fee”.

These amendments do not affect other matters that are detailed in Part VIA of the Act.

This amendment brings the *Industrial Relations Act 1979* into alignment with the *Workplace Relations Amendment Bill 2007* currently before Federal Parliament.

### **Financial Impact Statement**

The proposed amendments are not expected to have any impact on Government expenditure, therefore not requiring an appropriation.

#### *Notes on Clauses*

**Clause 1**—Provides that the proposed Act is to be cited as the *Industrial Relations (Prohibition of Bargaining Services Fees) Amendment Act 2007*.

**Clause 2**—Provides for the commencement of the proposed Act.

**Clause 3**—Amendments are made to the *Industrial Relations Act 1979*.

**Clause 4**—Section 96A is amended by inserting in the appropriate alphabetical position the definition of “bargaining services”.

**Clause 5**—Section 96A is further amended by inserting in the appropriate alphabetical position the definition of “bargaining services fee”.

**Clause 6**—After subsection 96B insert 96BA, which is self evident.

(1) An award, industrial agreement or order under this Act, or any arrangement between persons relating to employment must not require or permit payment of a bargaining services fee.

(2) The prohibition in subsection (1) extends to awards, industrial agreements, orders and arrangements that are in force at the commencement of section 28 of the *Industrial Relations Amendment Act 1993*.

(3) A provision of any award, industrial agreement or order under this Act or any arrangement between persons relating to employment that is contrary to this section is of no effect.

This means that for example, any clause that required non-union employees to pay a union an annual fee for negotiation and agreement would affect the freedom of association under the Industrial Relations Act.

This Act means that the prohibition of bargaining services fees would apply to fees paid to someone else in lieu of industrial association and in circumstances where the fee is to be paid for services provided on behalf of industrial association, this would ensure that industrial association cannot rely on related third parties to try to avoid the prohibition of bargaining services fees.

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